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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/256,192	02/24/1999	MICHIYUKI YASUDA	2165.6	9534

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FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER
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NGUYEN, KEVIN M

ART UNIT	PAPER NUMBER
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2674

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DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/256,192

Applicant(s)

YASUDA, MICHYUKI

Examiner

Kevin M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2003 has been entered. An action on the RCE follows:

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 9-14 are rejected under 35 U.S.C. 102(e) as being anticipated over Iwasaki et al (US 5,972,493)

As to claims 9 and 10, Iwasaki et al teaches a magnetic display device 10 (fig. 9) which includes toy for children (a toy body, col. 8, line 43), an upper transparent flat-sheet member 24 (fig. 5B), microcapsules 20 (fig. 4, col. 11, line 17), an lower transparent flat-sheet member 21 (fig. 5B), a dispersion medium 5 (fig. 1, col. 10, line 8), a non-magnetic power 4 (a background pigment, fig. 1, col. 10, line 7), a colorant

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may be added in the dispersion medium of the microcapsules so the magnetic display sheet may be colored. Usual pigments and dyestuffs, specially aqueous pigments may be used as the colorants. Such dyestuffs as methylene blue Congo red, benzo-yellow and such pigments as oil blue, oil green, oil yellow, benzidine yellow, new lactisum are desirable (col. 5, lines 1-8), a magnetic pen 9 (fig. 5B, col. 11, line 25).

Iwasaki et al teaches a titanium oxide  $\text{TiO}_2$ , and rutile pigments may be pointed out as the nonmagnetic power used in the invention (iridescent luster, col. 4, lines 62-64).

As to claim 12, 13, 14, Iwasaki et al teaches a titanium oxide  $\text{TiO}_2$ , and rutile pigments may be pointed out as the nonmagnetic power used in the invention (iridescent luster, col. 4, lines 62-64).

As to claim 11, Iwasaki et al teaches an upper transparent flat-sheet member 24 (fig. 5B), microcapsules 20 (fig. 4, col. 11, line 17), an lower transparent flat-sheet member 21 (fig. 5B).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murata et al (US 4,143,473) in view of Taketa et al (US 6,200,680).

As to claim 9, Murata et al teaches a magnetic display device 10 (fig. 9) which includes a rectangular frame 21 (a toy body, fig. 9, col. 10, line 56), an upper transparent flat-sheet member (a front substrate 11, fig. 2), an lower transparent flat-sheet member (a rear substrate 12, fig. 2), a dispersion medium (col. 5, line 38), a background (background pigment, col. 6, line 2), a colorant selected from white pigment, yellow pigment, and other dyestuffs or pigments is added to a magnetic fine particles (col. 5, lines 44-46), a magnetic pen 30 (fig. 9).

Murata et al fails to teach an upper-transparent flat-sheet marker having luster selected from iridescent luster.

Takeda et al reviews fine particles of mica coated with a titanium oxide thin film  $\text{TiO}_2$  (iridescent luster, col. 4, lines 13-14 and col. 3, lines 43-46) which coat for touch panel display of an electronic game equipment (col. 3, line 54-55).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the coated titanium oxide mica  $\text{TiO}_2$  taught by Takeda et al for Murata et al's magnetic display device because this would absorb ultraviolet on the screen display surface (see col. 3, lines 49-55 of Takeda for additional motivation).

As to claim 12, Takeda et al reviews fine particles of mica coated with a titanium oxide thin film  $\text{TiO}_2$  (iridescent luster, col. 4, lines 13-14 and col. 3, lines 43-46) which coat for touch panel display of an electronic game equipment (col. 3, line 54-55).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the coated titanium oxide mica  $\text{TiO}_2$  reviewed by

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Takeda et al for Murata et al's magnetic display device because this would absorb ultraviolet on the screen display surface (see col. 3, lines 49-55 of Takeda for additional motivation).

6. Claims 9 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasaki et al (US 5,972,493) in view of Mallik (US 4,921,319).

As to claims 9 and 10, Iwasaki et al teaches a magnetic display device 10 (fig. 9) which includes toy for children (a toy body, col. 8, line 43), an upper transparent flat-sheet member 24 (fig. 5B), microcapsules 20 (fig. 4, col. 11, line 17), an lower transparent flat-sheet member 21 (fig. 5B), a dispersion medium 5 (fig. 1, col. 10, line 8), a non-magnetic power 4 (a background pigment, fig. 1, col. 10, line 7), a colorant may be added in the dispersion medium of the microcapsules so the magnetic display sheet may be colored. Usual pigments and dyestuffs, specially aqueous pigments may be used as the colorants. Such dyestuffs as methylene blue Congo red, benzo-yellow and such pigments as oil blue, oil green, oil yellow, benzidine yellow, new lactisum are desirable (col. 5, lines 1-8), a magnetic pen 9 (fig. 5B, col. 11, line 25).

Iwasaki et al fails to teach an upper-transparent flat-sheet member having luster selected from hologram. However, Mallik discloses additionally hologram 11 coated on the touch surface 21 of the substrate sheet 15 (hologram appearance as claimed, col. 5, lines 36-44).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide hologram 11 taught by Mallik for Iwasaki et al's

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magnetic display device because this would decorate image with color and protective the surface of the magnetic display device (col. 2, lines 35-40 of Mallik).

***Response to Arguments***

7. Applicant's arguments filed 12/31/2002 have been fully considered but they are not persuasive.

In response to applicant's argument that claims 9 and 10 recite "a magnetic display device, comprising an upper transparent flat-sheet member having luster marker having luster selected from iridescent luster." This argument is not persuasive because Takeda et al reviews fine particles of mica coated with a titanium oxide thin film  $\text{TiO}_2$  (iridescent luster, col. 4, lines 13-14 and col. 3, lines 43-46) which coat for touch panel display of an electronic game equipment (col. 3, line 54-55). These argument are not persuasive because this would provide the coated titanium oxide mica  $\text{TiO}_2$  reviewed by Takeda et al for Murata et al's magnetic display device because this would absorb ultraviolet on the screen display surface (see col. 3, lines 49-55 of Takeda for additional motivation).

For these reasons, the rejections based on Murata et al, Iwasaki et al, Takeda et al and Mallik have been maintained.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kevin M. Nguyen** whose telephone number is **703-305-6209**. The examiner can normally be reached on MON-THU from 9:00-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richard A Hjerpe** can be reached on **703-305-4709**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**


**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Kevin M. Nguyen  
Patent Examiner  
Art Unit 2674

KN  
January 21, 2004

  
**XIAO WU**  
**PRIMARY EXAMINER**